

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF NORTH CAROLINA  
WESTERN DIVISION  
CIVIL NO: 5:15-cv-34-FL

CHRISTOPHER JENKINS, )  
On behalf of himself and all others )  
similarly situated, )  
Plaintiff, )  
vs. )  
THE MOSES H. CONE MEMORIAL )  
HEALTH SERVICES CORPORATION; )  
THE MOSES H. CONE MEMORIAL )  
HOSPITAL, INCORPORATED; THE )  
MOSES H. CONE MEMORIAL )  
HOSPITAL; THE MOSES H. CONE )  
MEMORIAL HOSPITAL OPERATING )  
CORPORATION; AVECTUS )  
HEALTHCARE SOLUTIONS, LLC )  
Defendants. )

**ORDER ON  
CONE DEFENDANTS' MOTION FOR  
LEAVE TO FILE UNDER SEAL SIMMS  
AFFIDAVIT AND ATTACHED  
EXHIBITS**

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This the 22nd day of April, 2015, Cone Defendants' Motion for Leave to File Under Seal Simms Affidavit and Attached Exhibits filed in support of Defendants' Memorandum in Opposition to Plaintiff's Motion to Remand, which was filed with the consent of all other parties, is GRANTED and the following materials SHALL BE FILED UNDER SEAL: the Affidavit of Mike Simms and Exhibits A, B, and C attached thereto.

The Court further finds that:

1. All parties consent to the Defendants' Motion;
2. The materials proposed to be sealed include protected health information under the Health Insurance Portability and Accountability Act ("HIPAA") as codified in 45 CFR § 164.501 *et seq.*;

3. The nature and quality of such material justifies sealing the proposed sealed documents, because the information is protected from disclosure by federal law, and no alternative to sealing is adequate;

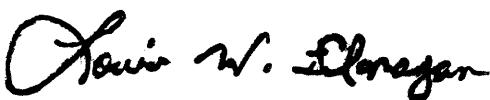
4. Additionally, the proposed sealed Exhibits B and C, attached to the affidavit, contain information retrieved from a confidential and proprietary database of a non-party to this litigation;

5. The nature and quality of such material justifies sealing the proposed sealed documents, despite the competing interests of the public, because the publication of confidential health information of Plaintiff potentially would harm Plaintiff and publication of confidential commercial information could be harmful to the business interests and competitive standing of a non-party, and no alternative to sealing is adequate;

6. The parties' interests in maintaining the confidentiality of these documents and information override any constitutional or common law right of public access which may attach to the documents and/or information at issue.

THEREFORE, it is ORDERED that the Affidavit of Mike Simms and its attached Exhibits A, B, and C may be filed under seal and shall remain sealed until otherwise ordered by this Court.

SO ORDERED, this the 22<sup>nd</sup> day of April, 2015.



LOUISE W. FLANAGAN  
United States District Court Judge